

Conciliation Agreement
Between U.S. Department of Labor
Office of Federal Contract Compliance Programs
and
Harlan Laboratories, Inc.
5668 Brisa Street, Suite B
Livermore, CA 94550

PART I: General Provisions

1. This agreement is between the Office of Federal Contract Compliance Programs (hereinafter "OFCCP") and Harlan Laboratories, Inc. (hereinafter "Harlan") located at 5668 Brisa Street Suite B, Livermore, California, 94550.
2. The violations identified in this Agreement were found during a compliance review of Harlan, which began on January 4, 2011 and were specified in a Notice of Violation issued on July 28, 2011. OFCCP alleges that Harlan has violated Executive Order 11246, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. § 4212) and implementing regulations at 41 C.F.R. Chapter 60 due to the specific violations cited in Part II below.
3. This Agreement does not constitute an admission by Harlan of any violation of Executive Order 11246, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. § 4212), or the implementing regulations at 41 C.F.R. Chapter 60.
4. The provisions of this Agreement will become part of Harlan's Affirmative Action Program (hereinafter "AAP"). Subject to the performance by Harlan of all promises and representations contained herein and in its AAP, all named violations in regard to the compliance of Harlan with all OFCCP programs will be deemed resolved. However, Harlan is advised that the commitments contained in this Agreement do not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.
5. Harlan agrees that OFCCP may review compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses and examine and copy documents, as may be relevant to the matter under investigation and pertinent to Harlan's compliance. Harlan shall permit access to its premises during normal business hours for these purposes.
6. Nothing herein is intended to relieve Harlan from the obligation to comply with the requirements of Executive Order 11246, as amended, and/or Section 503 of the Rehabilitation Act of 1973, as amended (Section 503), and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. § 4212) and/or implementing regulations, or any other equal employment statute or executive order or its implementing regulations.
7. Harlan agrees that there will be no retaliation of any kind against any beneficiary of this

Agreement, or against any person who has provided information or assistance to OFCCP, or who files a charge, or who participates in any manner in any proceedings under Executive Order 11246, as amended, and/or Section 503 of the Rehabilitation Act of 1973, as amended, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. § 4212).

8. This Agreement will be deemed to have been accepted by the Government on the date of signature by the Regional Director of OFCCP, unless the Director for OFCCP indicates otherwise within 45 days of the Regional Director's signing this Agreement.
9. If at any time in the future, OFCCP believes that Harlan has violated any portion of this Agreement during the term of this Agreement, Harlan will be promptly notified of that fact in writing. This notification will include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide Harlan with 15 days from receipt of the notification to respond in writing except where OFCCP alleges that such a delay would result in irreparable injury.

Enforcement proceedings for violations of this Agreement may be initiated at any time after the 15-day period has elapsed (or sooner, if irreparable injury is alleged) without issuing a Show Cause Notice.

Where OFCCP believes that Harlan has violated this Agreement, OFCCP may seek enforcement of this Agreement and shall not be required to present proof of the underlying violations resolved by this Agreement.

Liability for any violation of this Agreement may subject Harlan to sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. § 60-300.65 and/or other appropriate relief.

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PART II: Specific Provisions

1. **VIOLATION:** OFCCP's onsite investigation found that Harlan failed to uniformly apply the provisions of their compensation policies with respect to all employees, in violation of 41 CFR 60-1.4 (a) (1). Specifically, OFCCP's investigation found that Harlan has repeatedly demonstrated that (b) (7)(C), a (b) (7)(C), was underpaid when compared to individuals working in Harlan facilities throughout the country, in violation of 41 CFR 60-1.4 (a) (1). This employee was paid less than his counterparts, despite performing the same job and receiving similar performance reviews.

REMEDY: Harlan agrees to revise its compensation practices and take action steps to ensure that its compensation system provides that equal opportunity is afforded to all of its employees, irrespective of race or gender. This applies to all aspects of compensation, including, but not limited to, initial salary at time of hire, and progression into higher paying categories.

In order to resolve this violation, Harlan agrees to do the following

- A. Provide (b) (7)(C) with a make whole remedy. Harlan agrees to adjust the starting salary of (b) (7)(C) (b) (7)(C) will receive a retroactive salary adjustment from January 4, 2009, which is two years prior to Harlan's receipt of the Scheduling Letter, to the date that this Agreement is signed.

Harlan agrees to provide (b) (7)(C) an annual salary increase from (b) (4), (b) (7)(C) and agrees that (b) (7)(C) future salary increases will not be less than those of similarly situated employees. The total back wage liability derived from adjusting (b) (7)(C) salary to conform to the requirements of Harlan's compensation practices to date is \$14,839.11 plus \$845.03 in interest, less applicable taxes and withholding deductions. Harlan agrees to pay a total settlement of \$15,684.14 in addition to future earnings derived from the salary adjustment. The payment of the back wage liability will be made directly to (b) (7)(C) by certified check within 60 days after the effective date of this agreement, but no earlier than 45 days.

- B. Subsequent to 5 calendar days from the effective date of this agreement but no later than 10 calendar days after the effective date of this agreement, Harlan agrees to notify (b) (7)(C) by mail with signature confirmation (Attachment B), of his rights under this Agreement. Harlan will also include a Release of Claims (Attachment C). (b) (7)(C) upon receiving the above documents, must complete and return the Release of Claims to Harlan, Attention: Mike Lipke, 8520 Allison Pointe Blvd, Suite 400, Indianapolis, IN 46250. (b) (7)(C) will have 45 days from their receipt of the Notification to complete and return their response to Harlan at the address shown.

- C. Conduct an audit and analysis of its compensation practices as it impacts all employees.

D. Develop and implement compensation policies and procedures that will not differentiate compensation on the basis of race or gender of employees.

E. Harlan agrees to conduct training at its Livermore, California facility to all individuals involved in its compensation process. Training will also be provided to managers and supervisors hired after the completion of this Agreement within 30 days of hire.

2. **VIOLATION:** During the period of January 1, 2010 through December 31, 2010, Harlan failed to establish placement goals for Blacks and Asians in the Laborers & Helpers job group, as required by 41 CFR 60-2.16. There is a substantial disparity in the utilization of Blacks and Asians in the 8: Laborers and Helpers job group. For example, there are (b) (4) incumbents in the Laborers and Helpers job group. Of (b) (4) none (0) are Black and none (0) are Asian.

REMEDY: Harlan agrees to establish placement goals when there is a substantial disparity in the utilization of a particular minority group as required by 41 CFR 60-2.16.

3. **VIOLATION:** During the period of January 1, 2010 through December 31, 2010, Harlan failed to properly identify problem areas and develop action oriented programs designed to recruit and/or increase the applicant flow of qualified Black and Asian applicants for positions in the Laborers and Helpers job group as required by CFR 60-2.17 (b) and (c).

As of December 31, 2010, Harlan employed (b) (4) workers in the Laborers and Helpers job group, of which none (0%) were Black and none (0%) were Asian. During January 1, 2010 to December 31, 2010, Harlan had (b) (4) openings in the Laborers and Helpers job group. There were no Black or Asian applicants and no Blacks or Asians were selected. During January 1, 2009 to December 31, 2009, Harlan had (b) (4) opportunities in the Laborers and Helpers job group. There were no Black or Asian applicants.

Harlan failed to develop and execute action-oriented programs, pursuant to 41 CFR 60-2.17(c), designed to correct the recruitment of Blacks and Asians and any problem areas identified pursuant to 41 CFR 60-2.17(b). Harlan failed to demonstrate that it made good faith efforts to remove the identified barriers, expand employment opportunities, and produce measurable results.

REMEDY: Harlan agrees to identify problem areas and perform in-depth analyses of its total employment process in the Laborers and Helpers job group to determine where impediments to equal opportunity exist for Blacks and Asians in these job groups as required by 41 CFR 60-2.17 (b).

Harlan agrees to develop and execute action oriented programs designed to correct recruitment and selection procedures and enhance employment opportunities for Black and Asian applicants in the Laborers and Helpers job groups as required by 41 CFR 60-2.17 (c). Specifically, Harlan agrees to undertake appropriate outreach and positive recruitment

activities for qualified Blacks and Asians by implementing the following:

- A. When employment opportunities become available, Harlan will ensure that there are requests for Black and Asian applicants from the recruitment sources in Alameda County, San Joaquin County, Stanislaus County, Santa Clara County, and Contra Costa County; and that the requests are made in sufficient time prior to the closing date of the vacancy to allow the recruitment sources to find and refer qualified Black and Asian applicants. These recruitment sources include:

TriValley One Stop – East Bay Works
5020 Franklin Dr.
Pleasanton, CA 94588
Attn: (b) (7)(C)
Phone: (b) (7)(C)

Oakland Career Center
1212 Broadway, Suite 100
Oakland, CA 94601
Attn: Placement Coordinator
Phone: (510) 622-4333

Lao Family Community Dev., Inc.
2325 East 12th St.
Oakland, CA 94601
Attn: (b) (7)(C)
Phone: (510) 533-8850

Unity Council Multi-Cultural One
Stop Career Center
1900 Fruitvale Avenue
Oakland, CA 94601
Attn: (b) (7)(C)
Phone: (510) 535-6101

Richmond Works
330 25th St.
Richmond, CA 94804
Attn: (b) (7)(C)
Phone: (b) (7)(C)

Youth Employment Partnership, Inc.
2300 International Blvd.
Oakland, CA 94601
Attn: (b) (7)(C)
Phone: (510) 55303447 x (b) (7)(C)

- B. Harlan agrees to maintain records of the following information for each vacancy for the Laborers and Helpers job group: applicant's name; applicant's gender; date applicant applied; position applicant applied for; referral source of applicant, if appropriate; referral date of applicant, if appropriate; disposition of applicant; disposition date; reason(s) applicant was not hired, if appropriate; wages or salary offered to applicant, if appropriate; copies of the information Harlan transmitted to and received from the recruitment sources including, but not limited to, resumes, applications, correspondence, etc.
- C. Harlan agrees to implement good faith efforts, outreach, and recruitment activities. If it becomes evident that the action-oriented programs and recruitment activities are not effective in securing qualified Blacks and Asians for placement, Harlan will develop new strategies to generate qualified Blacks and Asians as opportunities occur.
4. **VIOLATION:** During the period of January 1, 2010 through December 31, 2010, Harlan failed to list all suitable employment openings with the California Employment

Development Department (EDD), or appropriate employment service delivery system, as required by 41 CFR 60-300.5.

REMEDY: Harlan agrees to list all suitable employment openings with the following organizations for referral and consideration of disabled and qualified covered veterans:

Swords to Plowshares
1060 Howard St.
San Francisco, CA 94103
Attn: (b) (7)(C)
Phone: (415) 252-4788

Las Positas College
Veterans First Program
3000 Campus Hill Dr.
Livermore, CA 94551
Attn: (b) (7)(C)
Phone: (925) 424-1571

Reboot Camp
PO Box 10956
Pleasanton, CA 94588
Attn: (b) (7)(C)
Phone: (b) (7)(C)

5. **VIOLATION:** During the period of January 1, 2010 through December 31, 2010, Harlan failed to file a VETS – 100A report, as required by 41 CFR 61-250 and 61-300. Specifically, Harlan did not submit, on or before September 30, 2010, a complete and accurate VETS – 100A report to the U.S. Department of Labor, Veterans' Employment and Training Service.

REMEDY: Harlan agrees to annually file a "Federal Contractor Veterans' Employment Report" (VETS-100A Report) approved by the Veterans' Employment and Training Service, for as long as it remains a federal contractor. Harlan will maintain copies of its VETS-100A Report and written records that document that the form was filed in a timely manner.

Harlan commits that these violations will not recur.

PART III: Reporting

Harlan agrees to submit two (2) progress reports to the U.S. Department of Labor, Office of Federal Contract Compliance Programs, Greater San Francisco / Bay District Office, 90 7th Street, Suite 11-100, San Francisco, California 94103.

REPORT DUE DATE

COVERED PERIOD

Report 1: October 31, 2011
Report 2: October 31, 2012

August 1, 2011 to October 15, 2011
October 16, 2011 to October 15, 2012

Harlan will include the following information in the reports:

First Report:

1. Proof that (b) (7)(C) was notified that Harlan has entered into a Conciliation Agreement with OFCCP (Attachment B).
2. A Copy of the cancelled check for the back pay and interest disbursed to (b) (7)(C)
3. Documentation detailing Harlan's Availability Analysis, Utilization Analysis, and Goals report for the most recent AAP year. The Goals report will detail the availability and utilization of each job title by specific minority group and gender.
4. Copies of Harlan's most recent VETS-100A forms, as required by 41 CFR 61-300.10(c).

Second Report:

5. Results of an audit and analysis of Harlan's compensation practices for (b) (7)(C) for the period specified above.
5. Copies of updated compensation policies and procedures.
6. Results of the training on the updated compensation system to Harlan managers. Include the following:
 - A. Date of the training,
 - B. The names and positions of the managers who attended, and
 - C. Topics covered with the managers and/or training materials disseminated to the managers.
7. Copies of Harlan's applicant flow log and hires, including the source of all applicants. These reports will cover the most recent AAP year.
8. Documentation showing that Harlan established and has maintained a current list of minority and female recruitment sources and provided written notification to them when employment opportunities occurred.
9. Documentation showing that Harlan established and is maintaining on file, the names, addresses, and telephone numbers of each minority and female off-the-street applicant and the action taken for each individual.
10. Documentation showing that Harlan is directing its recruitment efforts, both oral and written, to minority, female, and community organizations, and to minority and female recruitment and training organizations serving its recruitment area and documentation showing written notification to minority and female organizations at least two weeks prior

to the date of acceptance of applicants. Specifically, Harlan will focus its outreach efforts towards those female or specific minority groups for which it has established a goal.

11. Copies of Harlan's most recent VETS-100A forms, as required by 41 CFR 61-300.10(c).
12. Documentation illustrating Harlan's posting of all job openings with Swords to Plowshares, Las Positas College Veterans First Program, and Reboot Camp from the beginning of the reporting period until the end of the reporting period.

TERMINATION DATE:

This Agreement shall remain in effect until August 1, 2013 or until OFCCP's written acceptance of Harlan's final Progress Report, whichever date is later.

PART IV: Signatures

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Harlan Laboratories, Inc. located at 5668 Brisa Street, Suite B, Livermore, California, 94550.

DATE: 9/15/11

b(7)(C), b(6)

HANS THONEM
CEO
Harlan Laboratories, Inc.
8520 Allison Pointe Blvd, Suite 400
Indianapolis, IN 46250

DATE: 9/19/2011

b(7)(C)

Compliance Officer
Office of Federal Contract Compliance
Programs
Pacific Regional Office

DATE: 9/20/2011

b(7)(C), b(6)

IESUS ALVAREZ
Assistant District Director
Office of Federal Contract Compliance
Programs
Greater San Francisco / Bay District Office

DATE: 9/22/11

b(7)(C), b(6)

SARAH NELSON
Acting District Director
Office of Federal Contract Compliance
Programs
Greater San Francisco / Bay District Office

Attachment A

FEMALE CLASS MEMBERS, EFFECTIVE DATES, BACK PAY AND COMPOUND INTEREST

(b) (7)(C) employees working as (b) (7)(C) as of 07/28/11

NAME	FIRST DATE OF BACK PAY PERIOD (2 Years Prior to Receipt of Scheduling Letter)	LAST DATE	AMOUNT OF PAY INCREASE	BACK PAY	COMPOUND INTEREST	BACK PAY AND INTEREST
(b) (7)(C)	01/04/09	07/28/11	(b) (4), (b) (7)(C)	\$ 14,839.11	\$ 845.03	\$ 15,684.14
TOTAL	--	--		\$ 14,839.11	\$ 845.03	\$ 15,684.14

Attachment B

NOTIFICATION LETTER

Certified Mail
Return Receipt Requested

(b) (7)(C)

Dated: _____

Dear (b) (7)(C) :

Harlan Laboratories, Inc., 5668 Brisa Street, Suite B, Livermore, CA 94550 (hereinafter "Harlan") and the U.S. Department of Labor's Office of Federal Contract Compliance Programs (hereinafter "OFCCP") have entered into a Conciliation Agreement (hereinafter "CA") to resolve alleged disparities in compensation for employees working in (b) (7)(C) positions between January 4, 2009 and July 28, 2011. You have been identified as one of the individuals who worked in such a position during that time period.

By entering into this CA, Harlan has not admitted nor has there been any adjudicated finding that Harlan violated any laws regarding compensation. Harlan has entered into this CA for its convenience and to resolve the matter without further legal proceeding.

As part of this CA, you may be eligible to receive a monetary distribution of \$15,684.14 subject to lawful payroll deductions. In order to be eligible for this distribution, you must execute and return the enclosed Release of Claims **within forty-five (45) days of the postmark of this letter (or "within forty-five (45) days from your receipt of this letter" if received personally) to:**

HARLAN LABORATORIES, INC.
ATTENTION: HUMAN RESOURCES
8520 Allison Pointe Blvd, Suite 400, Indianapolis, IN 46250

If you fail to return the required documentation within the specified timeframe, you will be ineligible for monetary relief provided by this CA.

If you have any questions, please feel free to call me at (317) 806-6080 during normal business hours.

Sincerely,

Mike Lipke
HR Director

Enclosure: Release of Claims

cc: (b) (7)(C), Compliance Officer, U.S. Department of Labor, OFCCP

Attachment C

RELEASE OF CLAIMS

In consideration of the monetary payment (less deductions required by law) by Harlan Laboratories, Inc. (hereinafter "Harlan") of \$15,684.14 to me, which I agree is acceptable, and also in consideration of the Conciliation Agreement between Harlan and the Office of Federal Contract Compliance Programs (hereinafter "OFCCP"), I agree to the following:

I.

I hereby waive, release and forever discharge Harlan, its predecessors, related entities, subsidiaries, and organizations, and its and their directors, officers, employees, agents, successors, and assigns, of and from any and all actions, causes of action, damages, liabilities, and claims arising out of or actionable under Executive Order 11246, as amended, the Rehabilitation Act of 1973, as amended, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (U.S.C. 4212), and all other applicable laws governing nondiscrimination in employment, which I or my representatives (heirs, executors, administrators, or assigns) have or may have which relate in any way to my compensation at any time prior to the effective date of this Release.

II.

I understand that if I am concerned about how the process described in this Release applies to me, I may contact OFCCP Compliance Officer (b) (7)(C) for assistance at U.S. Department of Labor/OFCCP, 90 7th Street, Suite 18-300, San Francisco, CA 94103, phone number (415) 625 (b) (7)(C)

III.

I understand that Harlan denies that it treated me unlawfully or unfairly in any way and that Harlan entered into the above-referenced Conciliation Agreement with OFCCP in the spirit of conciliation and to bring closure to the compliance evaluation initiated by OFCCP on January 4, 2011. I further agree that the payment of the aforesaid sum by Harlan to me is not to be construed as an admission of any liability by Harlan.

IV.

I declare that I have read this Release and that I have had a full opportunity to consider and understand its terms and to consult with my advisors. I further declare that I have decided of my own free will to sign this Release.

V.

I understand that if I do not sign this Release and return it to Harlan's EEO Representative, Mike Lipke, 8520 Allison Pointe Blvd, Suite 400, Indianapolis, IN 46250 postmarked **within forty-five (45) calendar days from the date my Notification Letter was postmarked**, I will not be entitled to receive the payment (less deductions required by law) from Harlan.

IN WITNESS WHEREOF, I am signing this document of my own free will.

Name (please print)

Signature

Date